

Pursuant to Ind. Appellate Rule 65(D), this Memorandum Decision shall not be regarded as precedent or cited before any court except for the purpose of establishing the defense of res judicata, collateral estoppel, or the law of the case.

ATTORNEY FOR APPELLANT:

**VICTORIA L. BAILEY**  
Gilroy, Kammen & Hill  
Indianapolis, Indiana

ATTORNEYS FOR APPELLEE:

**STEVE CARTER**  
Attorney General of Indiana

**GARY DAMON SECREST**  
Deputy Attorney General  
Indianapolis, Indiana

---

**IN THE  
COURT OF APPEALS OF INDIANA**

---

MELISSA HAMLER,	)	
	)	
Appellant-Defendant,	)	
	)	
vs.	)	No. 49A05-0607-CR-356
	)	
STATE OF INDIANA,	)	
	)	
Appellee-Plaintiff.	)	

---

APPEAL FROM THE MARION SUPERIOR COURT  
The Honorable Robert Altice, Judge  
Cause No. 49G02-9909-CF-152039

---

**April 16, 2007**

**MEMORANDUM DECISION - NOT FOR PUBLICATION**

**KIRSCH, Judge**

Melissa Hamler appeals the revocation of her probation and raises one issue, which we restate as whether the trial court abused its discretion by denying her motion to continue the evidentiary hearing on her probation violation.

We affirm.

### **FACTS AND PROCEDURAL HISTORY**

On April 20, 2000, Hamler pled guilty to battery and resisting law enforcement. She was sentenced to eight years, with four suspended to probation, and was ordered to pay restitution. On May 3, 2006, the State filed a Notice of Probation Violation, for failing to meet her financial obligations. Two days later, the State amended the notice to include a second violation that Hamler had been arrested and charged with resisting law enforcement as a Class D felony and battery as a Class A misdemeanor.

On May 11, 2006, Hamler attended an initial hearing on her probation violation without an attorney. She believed she had hired an attorney, Tom Lewis, but no appearance had been entered. The trial court set the evidentiary hearing for June 9, 2006 and Hamler was instructed to contact her attorney.

On June 9, 2006, Hamler arrived in court with Lewis, who filed an appearance that day. *Tr.* at 31-32. Lewis orally requested a continuance to speak with Hamler about her probation violation and her charges in a separate court. *Id.* The trial court denied the continuance, but allowed Hamler to speak with Lewis for a few minutes before the hearing. *Id.* at 32-33. After Lewis explained to her the purpose of the hearing and the nature of the proceedings, the court commenced the hearing. *Id.*

During the hearing, a police officer testified that Hamler was arrested for battery in

relation to a domestic disturbance. *Id.* at 37. The trial court found that Hamler had violated her probation by being arrested and revoked her probation. Hamler now appeals.

### **DISCUSSION AND DECISION**

Hamler argues that the trial court improperly denied her motion for continuance of the hearing held on June 9, 2006. She specifically claims that the trial court abused its discretion because she was unprepared for the hearing and did not understand the proceedings.

The decision whether to grant or deny a continuance lies within the sound discretion of the trial court, and its decision will not be reversed on appeal absent clear abuse of that discretion. *Tapia v. State* 753 N.E.2d. 581, 586 (Ind. 2001). The appellant must make a specific showing that she was prejudiced by the denial. *Evans v. State*, 855 N.E.2d 378, 386 (Ind. Ct. App. 2006).

Here, Hamler had sufficient time to prepare for the evidentiary hearing. She received notice of the probation violations on May 5. Her initial hearing was on May 11, where she stated that she had hired Lewis, but that he was unavailable. The evidentiary hearing was set for June 9, which gave Hamler at least one month to prepare. Additionally, the trial court allowed Hamler a few minutes to discuss the proceedings in detail with Lewis before the hearing. *Tr.* at 33. We therefore conclude that Hamler had sufficient time to hire an attorney and prepare for the hearing. Hamler was not prejudiced by the denial of her motion for continuance, and thus, the trial court did not abuse its discretion.

Affirmed.

RILEY, J., and FRIEDLANDER, J., concur.